

Dept. of Attorney General
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**NATURAL RESOURCES
DIVISION**

In the Matter of:

Fort Gratiot Sanitary Landfill
St. Clair County, Michigan

MDEQ Reference No. AOC-RRD-08-004

SETTLEMENT AGREEMENT AND
ADMINISTRATIVE ORDER BY CONSENT
FOR PAYMENT OF PAST AND FUTURE RESPONSE ACTIVITY COSTS

A. This Administrative Order by Consent for Payment of Past and Future Response Activity Costs (Order) is entered into voluntarily by and between the Michigan Department of Environmental Quality (MDEQ) and the Michigan Department of Attorney General (MDAG) (collectively, the "State"); and Acheson Industries, Inc., BP Products North America, Inc., By-Lo Oil Company, City of Port Huron, CMS Energy Corporation (Consumers Energy Company, f/k/a Consumers Power Company), Country Fresh LLC, Domtar Inc., E.B. Eddy Paper, Inc., and Port Huron Fiber Corporation, Don Foster Oil (Foster Oil Co., Blue Water Oil Co., Foster Blue Water Oil, LLC, and Port Huron Petroleum, Inc.), DTE Energy, Fort Gratiot Township, General Motors Corporation, Georgia-Pacific Consumer Products LP (f/k/a James River), Grand Trunk Western Railroad Company, Canadian National Railway Company, Hamilton-Wentworth Catholic District School Board, a/k/a St. Mary's School, Lear Corporation, International Automotive Components Group North America, Inc., Lear Corporation EEDS and Interiors (f/k/a United Technologies Automotive, Inc.), Michigan Petroleum Technologies, Inc. (f/k/a Secory Oil Company), Mortimer and Son Lumber Company, Inc., Morton International, Inc. (Morton Salt Division), Mueller Brass Company, Ontario Die Company of America, Pharmacia Corporation, Port Huron Hospital, Port Huron Terminal Company, and Prestolite Wire LLC, (alternatively and collectively hereinafter, the "Reimbursing Parties"), pursuant to the authority vested in the MDEQ and the MDAG by Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), MCL 324.11501, *et seq.*,

and MCL 324.20101, *et seq.*; and the Comprehensive Environmental Response, Compensation, and Liability Act, 1980 PL 96-510, as amended (CERCLA), 42 USC Section 9601 *et seq.* All terms used in this Order, which are defined in Part 201 or the Part 201 Administrative Rules, 2002 Michigan Register 24, Effective December 21, 2002 (Part 201 Rules), shall have the same meaning in this Order as in Part 201 and the Part 201 Rules.

B. This Order concerns the settlement between the State and the Reimbursing Parties of the past and future response activity costs of the State, which have been and will continue to be incurred by the State in responding to the release or threat of release of hazardous substances at and emanating from the property of Fort Gratiot Sanitary Landfill, St. Clair County, Michigan (the Property). The Property and any associated area, place, or property where concentrations of hazardous substances exceed the residential cleanup criteria of Section 20120a(1)(a) and (17) of the NREPA (the Facility), as further defined in the Part 201 Rules, is a facility as defined by Part 201 and is subject to regulation under Part 201.

C. Pursuant to Part 201 and the CERCLA, the State has incurred and will continue to incur costs in responding to the release or threat of a release of hazardous substances at the Facility. Pursuant to Section 20126a(1)(a) of the NREPA, a person who is liable under Section 20126 is liable for all response activity costs lawfully incurred by the State. Section 107(a) of the CERCLA similarly provides that persons liable under CERCLA are liable for all costs of removal or remedial action incurred by a state not inconsistent with the national contingency plan. The parties to this Order desire to resolve all claims for past response activity costs, which the State has incurred and paid, and for future response activity costs associated with the Facility, which the State will continue to incur after the effective date of this Order. Settlement of this claim is in the public interest and will minimize litigation.

D. The execution of this Order by the Reimbursing Parties is neither an admission of liability with respect to any issue covered under this Order nor an admission or denial of any findings of fact or legal determinations stated or implied herein.

E. This Order shall apply to and be binding upon the Reimbursing Parties and their successors and assigns. No change or changes in the ownership or corporate status of any of the Reimbursing Parties shall alter in any way the Reimbursing Parties' obligations under this Order. The signatories to this Order certify that they are authorized to execute this Order and legally bind the parties they represent.

BASED UPON THE FOREGOING FACTS AND DETERMINATIONS, THE MDEQ AND THE ATTORNEY GENERAL HEREBY ORDER, AND REIMBURSING PARTIES HEREBY AGREE TO, THE FOLLOWING:

1. The State acknowledges that the Reimbursing Parties have paid the MDEQ One Million Four Hundred Thirty Thousand One Hundred Sixty-Four and 00/100 Dollars (\$1,430,164.00) to resolve all State claims for past response activity costs for the Facility. For the purposes of this Order, the term "past response activity costs" means response activity costs that the State incurred and paid during the time periods set forth in the "Cost Recovery Report - Combined," Attachment A.

2. The State acknowledges that the Reimbursing Parties have paid the MDEQ Five Hundred Fourteen Thousand Two Hundred Seventy-One and 30/100 Dollars (\$514,271.30) to resolve all State claims for future response activity costs for the Facility. For the purpose of this Order, the term "future response activity costs" means response activity costs that the State has incurred and paid and will continue to incur and pay subsequent to the time periods set forth in the "Cost Recovery Report - Combined," Attachment A.

3. Past response activity costs recovered pursuant to this Order shall be deposited in the Environmental Response Fund in accordance with the provisions of Section 20108(3) of the NREPA. Future response activity costs recovered pursuant to this Order shall be deposited in the Environmental Response Fund pursuant to Section 20108(3) of the NREPA, and shall be restricted for use by the MDEQ for performing response activities at the Facility as determined appropriate at the sole discretion of the MDEQ. If the recovered future

response activity costs are not used within 30 years, or if the MDEQ determines the funds are no longer necessary to perform response activities at the Facility, the remaining balance may be transferred to the unrestricted portion of the Environmental Response Fund for the use at any facility or for any use provided by law.

4. In consideration of the payments made by the Reimbursing Parties under the terms of this Order, except as otherwise provided in this Order, the State covenants not to sue or to take further administrative or civil action against the Reimbursing Parties for the past response activity costs addressed in Paragraph 1 of this Order, the future response activity costs addressed in Paragraph 2 of this Order, and injunctive relief for the performance of response activities to address environmental contamination at the Facility. With respect to the Reimbursing Parties' liability for past and future response activity costs and injunctive relief, the State's covenant not to sue shall take effect upon the effective date of this Order. The covenant not to sue shall extend only to the Reimbursing Parties and does not extend to any other person.

5. Nothing in this Order shall be construed as releasing or discharging any liability of any person to the Reimbursing Parties, and the Reimbursing Parties specifically reserve their rights against such persons.

6. The Reimbursing Parties agree that all applicable statutes of limitation are tolled until the Reimbursing Parties have fully complied with the terms of this Order.

7. The State reserves all of its rights under state and federal law to perform response activities and to take enforcement action, including the action to recover response activity costs not addressed by this Order, the recovery of natural resource damages and costs incurred to assess natural resource damages, monetary penalties, punitive damages for any violation of law or this Order, and liability for criminal acts. The State expressly reserves all of its rights and defenses pursuant to any available legal authority to enforce this Order.

8. Except as provided in Paragraph 4 of this Order, with respect to the Reimbursing Parties, nothing in this Order shall limit the power and authority of the MDEQ or the State of Michigan, pursuant to Section 20132(8) of the NREPA, to direct or order all appropriate action to protect the public health, safety, or welfare, or the environment; or to prevent, abate, or minimize a release or threatened release of hazardous substances, pollutants, or contaminants on, at, or from the Facility.

9. The State has concluded that this Order is appropriate, based in part upon the representation, information, and documentation that the Reimbursing Parties provided, and other information available to the MDEQ relating to the allocation of waste by volume contributed by the Reimbursing Parties relative to the known total waste volume of the Fort Gratiot Sanitary Landfill. If the information or documentation relied upon as a basis for reaching the settlement is determined to be substantially inaccurate in the portrayal of the Reimbursing Party's allocation, the State's covenant not to sue provided in Paragraph 4 of this Order will be automatically null and void as to that party.

10. Pursuant to Section 20129(5) of the NREPA; Section 113(f)(2) of the CERCLA, 42 USC Section 9613(f)(2); and to the extent provided in Paragraph 4 of this Order, the Reimbursing Parties shall not be liable for claims for contribution for the matters addressed in this Order. Entry of this Order does not discharge the liability of any other person that may be liable under Section 20126 of the NREPA; or Sections 107 and 113 of the CERCLA, 42 USC Sections 9607 and 9613, to the extent allowable by law. Pursuant to Section 20129(9) of the NREPA, any action by the Reimbursing Parties for contribution from any person not a party to this Order shall be subordinate to the rights of the State if the State files an action pursuant to Part 201 or other applicable federal or state laws.

11. This Order shall become effective on the date that the State signs this Order. All dates for the performance of obligations under this Order shall be calculated from the effective date of this Order. For the purposes of this Order, the term "day" shall mean a calendar day unless otherwise noted.

12. The State and the Reimbursing Parties may execute this Order in duplicate original form for the primary purpose of obtaining multiple signatures, each of which shall be deemed an original, but all of which together shall constitute the same instrument.

(remainder of this page is intentionally blank)

IT IS SO AGREED TO AND ORDERED BY:



Andrew W. Hogarth, Chief
Remediation and Redevelopment Division
Michigan Department of Environmental Quality

12/16/08
Date



Todd B. Adams P36819
Assistant Attorney General
Environment, Natural Resources, and Agriculture Division
Michigan Department of Attorney General

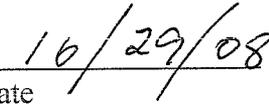
12/16/08
Date

IT IS SO AGREED BY:

Domtar Inc.
395 de Maisonneuve
Montreal QB Canada H3A-1L6



Signature



Date

Michael Edwards/Group Senior Vice President, Pulp and Paper Manufacturing

IT IS SO AGREED BY:

Port Huron Fiber Corporation

1700 Washington Ave.
Port Huron MI 48060



Signature

Mark A. Bessette/General Manager

10/28/08

Date

IT IS SO AGREED BY:

E.B. Eddy Paper, Inc.

**1700 Washington Ave.
Port Huron MI 48060**



Signature

Mark A. Bessette/General Manager

10/28/08

Date

IT IS SO AGREED BY:

Lear Corporation
and
Lear Corporation EEDS and Interiors
(f/k/a United Technologies Automotive, Inc.)
21557 Telegraph Road
Southfield, MI 48086

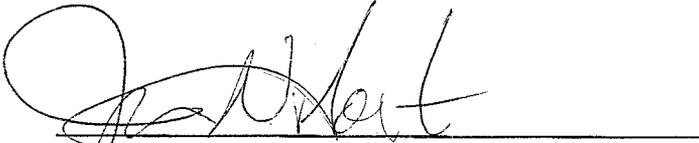


Signature
Liam Hart, Esq.
Deputy General Counsel

11.12.08
Date

IT IS SO AGREED BY:

International Automotive Components Group North America, Inc.
5300 Auto Club Drive
Dearborn, MI 48126



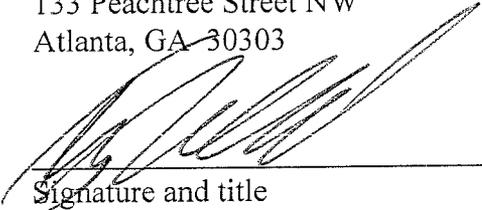
Signature
Janis Acosta, Esq.
Vice President and General Counsel

Date 11/5/08

IT IS SO AGREED BY:

Fort James Corporation, a wholly owned subsidiary of Georgia-Pacific LLC

133 Peachtree Street NW
Atlanta, GA 30303



Signature and title

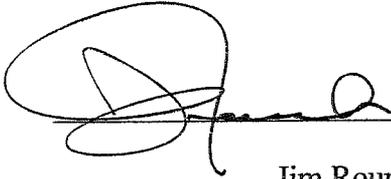
Tye Darland
Vice President

November 18, 2008

Date

IT IS AGREED BY:

Mueller Brass Co.
2199 Lapeer Ave.
Port Huron, MI. 48060



Jim Rourke
President Industrial Products Division

Nov 3, 2008

Date

IT IS SO AGREED BY:

Morton International, Inc.
(Morton Salt Division)
123 North Wacker Drive
Chicago, Illinois 60606-1743

Mary E. Doohan

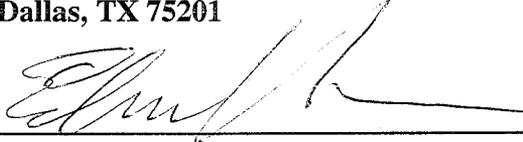
Mary E. Doohan
Vice President Legal Affairs & Group Counsel

November 7, 2008

Date

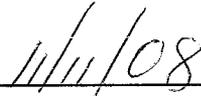
IT IS SO AGREED BY:

Country Fresh LLC
2515 McKinney Avenue
Suite 1200
Dallas, TX 75201



Signature

Ed Herman, Authorized Signatory



Date

IT IS SO AGREED BY:

By-Lo Oil Co.
2799 Wadhams Road
P.O. Box 611046
Port Huron, Michigan 48061

Craig Lawrence
Signature

11-05-08
Date

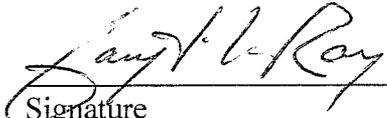
CRAIG LAWRENCE President
Print name, title

President

IT IS SO AGREED BY:

Port Huron Hospital

**1221 Pine Grove Ave.
Port Huron, MI 48059**



Signature

Gary S. LeRoy, Vice President for Admin & Planning

11-04-08

Date

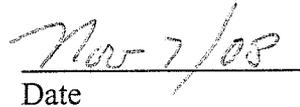
IT IS SO AGREED BY:

[Name of the Reimbursing Party]

Hamilton-Wentworth Catholic District School Board
90 Mulberry Street, P.O. Box 2012
Hamilton, On. L8N 3R9



Marcel J. Castura, Director of Education



Date



Patrick J. Daly, Chairperson

IT IS SO AGREED BY:

City of Port Huron
100 McMorrان Boulevard
Port Huron, Michigan 48060



Signature

November 21, 2008

Date

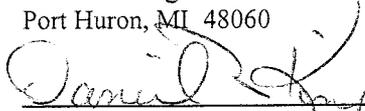
John H. Ogden, Director of Finance

Print name, title

IT IS SO AGREED BY:

Acheson Industries Inc.

1600 Washington Ave.
Port Huron, MI 48060



Daniel P King P31170

Pedersen, Keenan, King, Wachsberg & Andrzejak
4057 Pioneer Drive, Suite 300
Commerce, MI 48390-1363
Attorney for Acheson Industries Inc

Date 10-27-2008

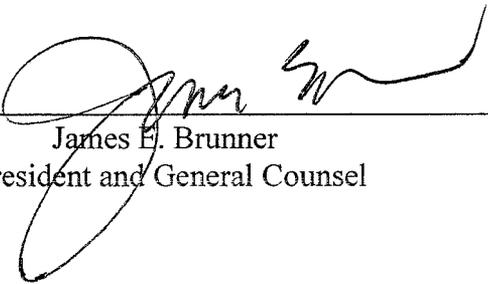
IT IS SO AGREED BY:

CMS ENERGY CORPORATION
(Consumers Energy Company,
f/k/a Consumers Power Company)

One Energy Plaza, Jackson, MI 49201

Approved as to form

JPD 11/10/08
Legal Department



James E. Brunner
Sr. Vice President and General Counsel

11/10/08
Date

IT IS SO AGREED BY:

[Name of the Reimbursing Party]

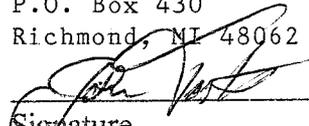
Don Foster Oil Company (Foster Oil/Blue Water Oil/Port Huron Petroleum)

[Address]

36065 Water Street

P.O. Box 430

Richmond, MI 48062



Signature

[Type or print name, title]

John Foster, President

10-2-08
Date

IT IS SO AGREED BY:

**Pharmacia Corporation
100 Route 206 North
Peapack, New Jersey 07977**



Signature

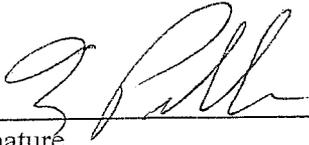
**Stephen O'Sullivan
Assistant Secretary**

11-17-08
Date

IT IS SO AGREED BY:

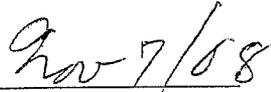
GRAND TRUNK WESTERN RAILROAD COMPANY

17641 South Ashland Avenue
Homewood, IL 60430



Signature

Normand Pellerin
AVP-Environnement

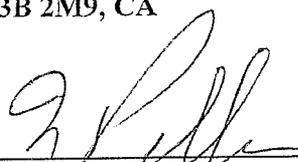


Date

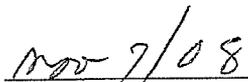
IT IS SO AGREED BY:

CANADIAN NATIONAL RAILWAY COMPANY

**935 rue de La Gauchetiere Ouest
Montreal, QC
H3B 2M9, CA**



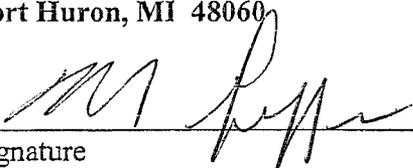
Signature
Normand Pellerin
AVP-Environnement



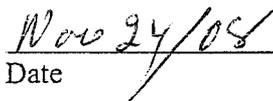
Date

IT IS SO AGREED BY:

Ontario Die Company of America
2735 Twentieth Street
Port Huron, MI 48060



Signature
Michael R. Geffros, Executive Vice-President



Date

IT IS SO AGREED BY:

**Charter Township of Fort Gratiot
3720 Keewahdin Road
Fort Gratiot Michigan 48059**



Signature

**Robert C. Crawford
Charter Township of Fort Gratiot Clerk**

October 23, 2008
Date

IT IS SO AGREED BY: MORTIMER AND SON LUMBER COMPANY, INC.

[Name of the Reimbursing Party]

[Address]

2307 LAPEER AVE.
PORT HURON, MI, 48060



Signature
[Type or print name, title]

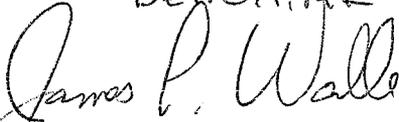
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Date

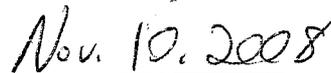
FRANKLIN J. MORTIMER, PRESIDENT

IT IS SO AGREED BY:

[Name of the Reimbursing Party] General Motors Corporation

[Address] 300 Renaissance Center, Mail Code: 482-24-024
Detroit, MI 48265





Signature

Date

[Type or print name, title] JAMES P. WALLE, ATTORNEY
P31698

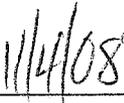
IT IS SO AGREED BY:

Port Huron Terminal Company
600 Fort Street
Port Huron, Michigan 48060



Signature, Richard Engle
Vice President

Print name, title



Date

IT IS SO AGREED BY:

Michigan Petroleum Technologies, Inc.
(f/k/a Secory Oil Company)
3030 Moak Street
Port Huron, MI 48060



Signature
Lewis P. Secory, Vice-President

11-17-08
Date

IT IS SO AGREED BY:

DTE Energy
2000 2nd Avenue
Detroit, Michigan 48226



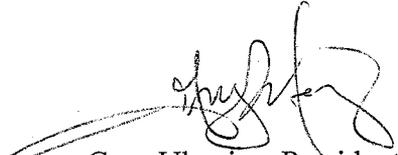
Signature
Michael J. Solo, Jr.

11-11-08
Date

IT IS SO AGREED BY:

Prestolite Wire LLC

**200 Galleria Officentre
Suite 212
Southfield, MI 48034**



Greg Ulewicz, President & CEO

Signature

10/24/08

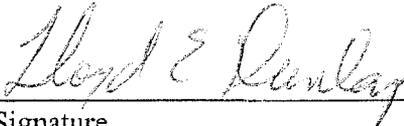
Date

IT IS SO AGREED BY:

[Name of the Reimbursing Party]

BP Products North America Inc.
Atlantic Richfield
28100 Torch Parkway
Warrenville, IL 60555

[Address]



Signature



Date

[Type or print name, title]

Lloyd Dunlap, Deputy Regional Manager

ATTACHMENT A

COST RECOVERY SUMMARY REPORT - COMBINED

Cost Recovery Summary Report - Combined

Site Name: Fort Gratiot Sanitary LF

County: Saint Clair

Site ID: 74000161

Packages: 454871-00 Fort Gratiot Sanitary LF: Original, Update 6a QMF
 455639-00 FORT GRATIOT LANDFILL: Original, Update1, Update2, Update3 QMF, Update4
 QMF, Update5 QMF, Payment, Update6 QMF

Total for Employee Salaries and Wages		
Period Covered: 02/07/1998 - 09/20/2008	\$319,978.50	
Indirect Dollars	\$55,570.08	
Sub-Total		<u>\$375,548.58</u>
Total for Employee Travel Expenses		
Period Covered: 12/21/1999 - 08/20/2008		\$30,448.90
Contractual Expenses		
Malcolm Pirnie, Inc. (LOE #9499) (P8001482)		
Period Covered: 08/18/1998 - 02/12/1999	\$17,666.38	
MARINE POLLUTION CONTROL (P9000320)		
Period Covered: 12/31/1998 - 10/13/1999	\$75,509.08	
MARINE POLLUTION CONTROL (P0000572)		
Period Covered: 01/12/2000 - 10/10/2002	\$188,592.86	
McNulty Electric, Inc. (Y00123A)		
Period Covered: 02/29/2000 - 06/30/2000	\$49,729.00	
FUTURE FENCE COMPANY (P0001330)		
Period Covered: 05/25/2000 - 05/25/2000	\$55,720.00	
Malcolm Pirnie, Inc. (PM Contracts) (Y00252-D)		
Period Covered: 09/19/2000 - 03/18/2003	\$28,590.20	
Malcolm Pirnie, Inc. (PM Contracts) (Y00252-H)		
Period Covered: 10/04/2000 - 03/17/2003	\$358,938.08	
Malcolm Pirnie, Inc. (PM Contracts) (Y00378-D)		
Period Covered: 01/21/2001 - 03/17/2003	\$85,623.79	
Malcolm Pirnie, Inc. (PM Contracts) (Y00378-H)		
Period Covered: 03/08/2001 - 03/18/2003	\$594,788.10	
Fort Gratiot Township of (P1001332)		
Period Covered: 07/26/2001 - 09/24/2001	\$250,000.00	
S.S.O.E., INC. (Y80100)		
Period Covered: 09/16/2002 - 01/27/2005	\$16,114.74	
Trace Analytical Laboratories, Inc. (Y80243)		
Period Covered: 09/16/2002 - 01/27/2005	\$12,813.00	
Anglin Civil Contractors, Ltd (Y03174)		
Period Covered: 10/07/2003 - 07/19/2006	\$4,385,942.04	
Mactec (Frmr Harding ESE) (LOE - State) (P3001418)		
Period Covered: 11/25/2003 - 03/03/2005	\$308,240.31	
Sheldon Construction, Inc. (Y03286)		
Period Covered: 01/16/2004 - 10/13/2005	\$415,199.96	
Trace Analytical Laboratories, Inc. (Y03088)		
Period Covered: 02/03/2004 - 11/30/2007	\$43,912.64	

Cost Recovery Summary Report - Combined

Mactec (Frmr Harding ESE) (LOE - State) (P5200326)		
Period Covered: 03/02/2005 - 03/09/2008	\$259,421.44	
Technical Service Professionals (Y05196)		
Period Covered: 11/08/2005 - 09/29/2008	\$182,041.59	
Trace Analytical Laboratories, Inc. (Y08044)		
Period Covered: 03/20/2008 - 09/30/2008	\$1,307.00	
Mactec Engineering - LOE 2005 (P8200287)		
Period Covered: 05/10/2008 - 09/29/2008	\$2,922.70	
Contract Sub-Total		<u>\$7,333,072.91</u>
Total for Miscellaneous Expenses		
Period Covered: 12/10/1999 - 08/13/2008		\$93,298.20
MDNR/MDEQ Lab		
Period Covered: 01/30/2001 - 01/30/2001		\$1,017.82
Total for MDPH/Community Health Expenses		
Alternate Water Supply		
Period Covered:	\$0.00	
Bottled Water		
Period Covered:	\$0.00	
MDPH/MDCH Lab		
Period Covered:	\$0.00	
Sub-Total	<u>\$0.00</u>	<u>\$0.00</u>
Attorney General Expenses		
Period Covered: 09/30/1998 - 05/31/2008		\$72,994.50
Other Expenses		
Period Covered: 02/16/2005 - 02/16/2005		(\$161,572.23)
Sub-Total		<u>\$7,744,808.68</u>
Interest Calculated from through		<u>\$0.00</u>
Total Combined Expenses for Site and Interest		<u><u>\$7,744,808.68</u></u>

Run Date 10/20/2008